

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1636

Chapter 482, Laws of 2007

60th Legislature
2007 Regular Session

REGIONAL TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

EFFECTIVE DATE: 07/22/07

Passed by the House April 14, 2007
Yeas 91 Nays 2

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 9, 2007
Yeas 46 Nays 1

BRAD OWEN

President of the Senate

Approved May 15, 2007, 8:14 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1636** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 16, 2007

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1636

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Simpson, B. Sullivan, Dunshee, Upthegrove, McCoy, Dickerson, P. Sullivan, Morrell, Sells and Rolfes)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to the creation of a regional transfer of
2 development rights program; adding a new chapter to Title 43 RCW; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that current concern
6 over the rapid and increasing loss of rural, agricultural, and forested
7 land has led to the exploration of creative approaches to preserving
8 these important lands. The legislature finds also that the creation of
9 a regional transfer of development rights marketplace will assist in
10 slowing the conversion of these lands.

11 The legislature further finds that transferring development rights
12 is a market-based technique that encourages the voluntary transfer of
13 growth from places where a community would like to see less
14 development, referred to as sending areas, to places where a community
15 would like to see more development, referred to as receiving areas.
16 Under this technique, permanent deed restrictions are placed on the
17 sending area properties to ensure that the land will be used only for
18 approved activities such as farming, forest management, conservation,

1 or passive recreation. Also under this technique, the costs of
2 purchasing the recorded development restrictions are borne by the
3 developers who receive the building credit or bonus.

4 Accordingly, the legislature has determined that it is good public
5 policy to build upon existing transfer of development rights programs,
6 pilot projects, and private initiatives that foster effective use of
7 transferred development rights through the creation of a market-based
8 program that focuses on the central Puget Sound region.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires otherwise.

11 (1) "Department" means the department of community, trade, and
12 economic development.

13 (2) "Nongovernmental entities" includes nonprofit or membership
14 organizations with experience or expertise in transferring development
15 rights.

16 (3) "Transfer of development rights" includes methods for
17 protecting land from development by voluntarily removing the
18 development rights from a sending area and transferring them to a
19 receiving area for the purpose of increasing development density in the
20 receiving area.

21 NEW SECTION. **Sec. 3.** Subject to the availability of amounts
22 appropriated for this specific purpose, the department shall fund a
23 process to develop a regional transfer of development rights program
24 that comports with chapter 36.70A RCW that:

25 (1) Encourages King, Kitsap, Pierce, and Snohomish counties, and
26 the cities within these counties, to participate in the development and
27 implementation of regional frameworks and mechanisms that make transfer
28 of development rights programs viable and successful. The department
29 shall encourage and embrace the efforts in any of these counties or
30 cities to develop local transfer of development rights programs. In
31 fulfilling the requirements of this chapter, the department shall work
32 with the Puget Sound regional council and its growth management policy
33 board to develop a process that satisfies the requirements of this
34 chapter. In the development of a process to create a regional transfer
35 of development rights program, the Puget Sound regional council and its
36 growth management policy board shall develop policies to discourage, or

1 prohibit if necessary, the transfer of development rights from a
2 sending area that would negatively impact the future economic viability
3 of the sending area. The department shall also work with an advisory
4 committee to develop a regional transfer of development rights
5 marketplace that includes, but is not limited to, supporting strategies
6 for financing infrastructure and conservation. The department shall
7 establish an advisory committee of nine stakeholders with
8 representatives of the following interests:

9 (a) Two qualified nongovernmental organizations with expertise in
10 the transfer of development rights. At least one organization must
11 have a statewide expertise in growth management planning and in the
12 transfer of development rights and at least one organization must have
13 a local perspective on market-based conservation strategies and
14 transfer of development rights;

15 (b) Two representatives from real estate and development;

16 (c) One representative with a county government perspective;

17 (d) Two representatives from cities of different sizes and
18 geographic areas within the four-county region; and

19 (e) Two representatives of the agricultural industry; and

20 (2) Allows the department to utilize recommendations of the
21 interested local governments, nongovernmental entities, and the Puget
22 Sound regional council to develop recommendations and strategies for a
23 regional transfer of development rights marketplace with supporting
24 strategies for financing infrastructure and conservation that
25 represents the consensus of the governmental and nongovernmental
26 parties engaged in the process. However, if agreement between the
27 parties cannot be reached, the department shall make recommendations to
28 the legislature that seek to balance the needs and interests of the
29 interested governmental and nongovernmental parties. The department
30 may contract for expertise to accomplish any of the following tasks.
31 Recommendations developed under this subsection must:

32 (a) Identify opportunities for cities, counties, and the state to
33 achieve significant benefits through using transfer of development
34 rights programs and the value in modifying criteria by which capital
35 budget funds are allocated, including but not limited to, existing
36 state grant programs to provide incentives for local governments to
37 implement transfer of development rights programs;

1 (b) Address challenges to the creation of an efficient and
2 transparent transfer of development rights market, including the
3 creation of a transfer of development rights bank, brokerage, or direct
4 buyer-seller exchange;

5 (c) Address issues of certainty to buyers and sellers of
6 development rights that address long-term environmental benefits and
7 perceived inequities in land values and permitting processes;

8 (d) Address the means for assuring that appropriate values are
9 recognized and updated, as well as specifically addressing the need to
10 maintain the quality of life in receiving neighborhoods and the
11 protection of environmental values over time;

12 (e) Identify opportunities and challenges that, if resolved, would
13 result in cities throughout the Puget Sound region participating in a
14 transfer of development rights market;

15 (f) Compare the uses of a regional transfer of development rights
16 program to other existing land conservation strategies to protect rural
17 and resource lands and implement the growth management act; and

18 (g) Identify appropriate sending areas so as to protect future
19 growth and economic development needs of the sending areas.

20 NEW SECTION. **Sec. 4.** The department shall submit recommendations,
21 findings, and legislative recommendations according to the following
22 schedule:

23 (1) By December 1, 2007, the department shall notify the governor
24 and the appropriate committees of the legislature of any recommended
25 actions for advancing the purposes of this act.

26 (2) By December 1, 2008, the department shall notify the governor
27 and the appropriate committees of the legislature of findings and
28 legislative recommendations to implement a regional transfer of
29 development rights program.

30 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act constitute
31 a new chapter in Title 43 RCW.

Passed by the House April 14, 2007.

Passed by the Senate April 9, 2007.

Approved by the Governor May 15, 2007.

Filed in Office of Secretary of State May 16, 2007.